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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Nov-20-2009

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President

Appeal No. : Appeal No.E/773 of 2007

Appellant : Elforge Ltd.

Respondent : Commissioner of Central Excise, Chennai

Advocate for Pet/Ap. : Shri R.Parthasarathy, Consultant, Shri C.Rangaraju, SDR

Judgement :

CENVAT credit of Rs.1,43,298/- taken by the assessees, who are engaged in the manufacture of Rough Steel Forgings, on furnace oil used during the period in dispute namely March to December 2005 in the manufacture of Rough Steel Forgings cleared without payment of duty to the sister units in terms of Notification No.214/86-CE and used in waste and scrap generated in the course of such manufacture and cleared on payment of duty, has been directed to be reversed on the ground that Rough Steel Forgings were cleared without payment of duty and hence were exempted goods, and that waste and scrap is not the result of manufacture. Penalty of Rs.10,000/- has been imposed on the assessees under Rule 15 of the CENVAT Credit Rules, 2004.

2. I have heard both sides. In the case of Sterlite Industries (I) Ltd. Vs CCE Pune [2005 (183) ELT 353], the Larger Bench of the Tribunal has held that finished

goods cleared by a job worker without payment of duty under Notification No.214/86-CE cannot be considered to be exempted goods and, therefore, I hold that the assessees are not required to reverse CENVAT credit taken on furnace oil used in the manufacture of Rough Steel Forgings cleared without payment of duty. CBEC s circular dt. 29.8.2000 clarifies that CENVAT credit can be utilized for payment of duty on waste and scrap as waste and scrap are final products within the definition of Rule 57AA (c) and, therefore, I hold that the assessees are not required to reverse credit for payment of duty on waste and scrap.

3. In the result, I set aside the impugned order and allow the appeal.